THE

MYSORE GAZETTE.

Published by Authority.

BANGALORE, THURSDAY, MAY 5, 1892.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III.

Acts and Regulations passed by His Highness the Maharaja of Mysore.

GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

REGULATION No. I OF 1892.

A Regulation to amend the Law relating to Fraudulent Marks on Merchandise.

The following Regulation received the assent of His Highness the Maharaja on the 22nd day of April 1892, and is hereby promulgated for general information :—

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; His Highness the Maharaja is pleased to enact as follows :—

Title, extent and commencement.

1. (1) This Regulation may be called the Mysore Merchandise Marks Regulation, 1892.

(2). It extends to the whole of the Territories of Mysore ;

(3). It shall come into force at once.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

(1) "trade mark" has the meaning assigned to that expression in Section 478 of the Indian Penal Code as amended by this Regulation :

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge or weight of any goods, or
(*b*) as to the place or country in which, or the time at which, any goods were made or produced, or
(*c*) as to the mode of manufacturing or producing any goods, or
(*d*) as to the material of which any goods are composed, or
(*e*) as to any goods being the subject of an existing patent, privilege or copyright ;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Regulation :

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning fo this Regulation

(4) "goods" means anything which is the subject of trade or manufacture : and

(5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely :—

Substitution of new sections for Sections 478 to 489 of the Indian Penal Code.

"*Of Trade, Property and Other Marks.*

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark.

Trade mark.

"479. A mark used for denoting that movable property belongs to a particular person is called a property mark.

Property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonable calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false trade mark.

"481. Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonable calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Using a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false trade mark or property mark.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting a mark used by a public servant.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture

Making or possession of any instrument for counterfeiting a trade mark or property mark.

or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Selling goods marked with a counterfeit trade mark or property mark.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Tampering with property mark with intent to cause injury.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Trade Description.

Provisions supplemental to the definition of false trade description.

4. (1) The provisions of this Regulation respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Regulation respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

(*a*) not being a trade mark, or part of a trade mark, and

(*b*) being identical with, or a colorable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (1) A person shall be deemed to apply a trade description to goods who—

(a) applies it to the goods themselves, or

(b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or

(d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2). A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3). The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

Penalty for applying a false trade description.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Regulation, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offience against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

Unintentional contravention of the law relating to marks and descriptions.

8. Where a person is accused under Section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in Section 480 or Section 481 of that Code, as the case may be, or under Section 6 of this Regulation of applying to goods any false trade description, or under Section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting

a trade mark or property mark, and proves—

(*a*) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

Forfeiture of goods.

9. (1) When a person is convicted under Section 482 of the Indian Penal Code of using a false trade mark, or under Section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under Section 487 or Section 488 of that Code of making, or making use of, a false mark, or under Section 6 or Section 7 of this Regulation of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in Section 486 of the Indian Penal Code or Section 7 or Section 8 of this Regulation, the Court convicting or acquitting him may direct the forfeiture to His Highness the Maharaja of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Stamping of Length of Piece-goods manufactured in the Territories of Mysore.

Stamping of length of piece-goods manufactured in the Territories of Mysore.

10. (1). Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises in the Territories of Mysore, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to His Highness the Maharaja, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

Costs of defence or prosecution.

11. (1) On any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Regulation, which relate to trade, property and other marks, the Court may order

costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

Limitation of prosecution.

12. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

Authority of the Government of Mysore to issue instructions as to administration of this Regulation.

13. (1) The Government of Mysore may, by notification in the official Gazette, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Regulation.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods.

Implied warranty on sale of marked goods.

14. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Regulation, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

15. (1) Nothing in this Regulation shall exempt any person from any suit or other proceedings which might, but for anything in this Regulation, be brought against him.

(2) Nothing in this Regulation shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in Section 14.

(3) Nothing in this Regulation shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in the Territories of Mysore who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Definition of piece-goods.

16. For the purposes of Section 12 of this Regulation, the Government of Mysore may, by notification in the official Gazette, declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

Determination of character of goods by sampling.

17. (1) The Government of Mysore may make rules, for the purposes of this Regulation, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

(2). With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court having occasion to ascertain the number, quantity, measure, gauge or weight of the goods shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3). The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *primâ facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(4). If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court of such sums for defraying the cost of the further selection and testing as the Court may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Government of Mysore in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5). The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(6). Rules under this section shall be made after previous publication.

Information as to commission of offences.

18. An officer of the Government of Mysore whose duty it is to take part in the enforcement of this Regulation shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Regulation.

Punishment of abetment in the Territories of Mysore of acts done out of the Territories of Mysore.

19. If any person, being within the Territories of Mysore, abets the commission, without the Territories of Mysore, of any act which, if committed in the Territories of Mysore, would under this Regulation, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in the Territories of Mysore in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

K. SHESHADRI IYER,
Dewan of Mysore.

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BANGALORE, THURSDAY, JUNE 2, 1892.

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PART III.

[redacted]cts and Regulations passed by His Highness the Maharaja of Mysore.

GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

REGULATION NO. II OF 1892.

The following Regulation received the assent of His Highness the Maharaja on the 23rd day of May 1892; and is hereby promulgated for general information:—

A Regulation to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.

Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; His Highness the Maharaja is pleased to enact as follows:—

Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

1. Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the partly injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

And it is enacted further that every such action or suit shall be for the benefit of the wife, husband, parent, and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the execur, to administrator or representative of the person deceased;

and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

2. Provided always that not more than one action or suit shall be brought for and in respect of the same subject-matter of complaint; provided that, in any such action or suit, the executor, administrator, or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect, or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

Not more than one suit to be brought.

Claim for loss to estate may be added.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, &c.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting masculine gender are to be understood to apply also to persons of the feminine gender, and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

Interpretation-clause.

K. SHESHADRI IYER,
Dewan of Mysore.

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BANGALORE, THURSDAY, JUNE 9, 1892.

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PART III.

Acts and Regulations passed by His Highness the Maharaja of Mysore.

GOVERNMENT OF MYSORE.

LEGISLATIVE DEPARTMENT.

REGULATION No. II OF 1892.

The following Regulation received the assent of His Highness the Maharaja on the 23rd day of May 1892; and is hereby promulgated for general information:—

A Regulation to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.

Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; His Highness the Maharaja is pleased to enact as follows:—

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And it is enacted further that every such action or suit shall be for the benefit of the wife, husband, parent, and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the execur, to administrator or representative of the person deceased;

and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

2. Provided always that not more than one action or suit shall be brought for and in respect of the same subject-matter of complaint; provided that, in any such action or suit, the executor, administrator, or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect, or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

Not more than one suit to be brought.

Claim for loss to estate may be added.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, &c.

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Interpretation-clause.

K. SHESHADRI IYER,
Dewan of Mysore.

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BANGALORE, THURSDAY, JUNE 16, 1892.

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And it is enacted further that every such action or suit shall be for the benefit of the wife, husband, parent, and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

2. Provided always that not more than one action or suit shall be brought for and in respect of the same subject-matter of complaint; provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect, or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

Not more than one suit to be brought.

Claim for loss to estate may be added.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, &c.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

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